

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

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| IN RE:<br><br>OFFICE OF CONSUMER ADVOCATE,<br><br>Complainant,<br><br>v.<br><br>1-800-RECONEX, INC., d/b/a US TEL,<br><br>Respondent. | DOCKET NO. FCU-04-32 |
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND  
SETTING DEADLINE FOR RESPONSE**

(Issued July 8, 2004)

On June 7, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-122, involving 1-800-Reconex, Inc., d/b/a US Tel (Reconex), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On May 10, 2004, Ms. Nicole Bagley filed a complaint with the Board alleging that her long distance service was changed without her authorization. Board staff identified the matter as C-04-122 and, pursuant to Board rules, on May 12, 2004, forwarded the complaint to Reconex for response within ten days. Reconex responded to Board staff's inquiry on May 18, 2004. Reconex indicated that it received a call from Ms. Bagley on May 1, 2004, who stated that she did not authorize switching her service. Reconex said that it told Ms. Bagley that it would review the recording of the third-party verification. Reconex stated that after reviewing the recording, it determined that the verification process had not been completed. The party on the recording was a male who hung up before verification of the authorization for the switch was completed. Reconex indicated that Ms. Bagley's account was closed.

On May 24, 2004, Board staff issued a proposed resolution describing these events and concluding that slamming had occurred in this matter. Staff noted that Ms. Bagley was again being served by her original carrier, that the respondent had credited Ms. Bagley for \$16.10, and that the respondent had indicated it would send Ms. Bagley a check for \$25.00 to cover the cost she incurred to switch back to her original carrier. No party other than Consumer Advocate has challenged the staff's proposed resolution.

In its June 7, 2004, petition, Consumer Advocate asserts that a civil penalty should be imposed against Reconex to deter future slamming violations. Consumer

Advocate requests that the Board docket this complaint for formal proceeding.

Reconex has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay establishing a procedural schedule until August 6, 2004, and allow Reconex an opportunity to respond to the allegations raised in Consumer Advocate's petition.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on June 7, 2004, is granted and docketed for formal proceeding.

2. 1-800-Reconex, Inc., d/b/a US Tel, is directed to file a response to Consumer Advocate's petition on or before August 6, 2004.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 8<sup>th</sup> day of July, 2004.